

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAISY MERCHANT,) Case No. CV 24-2669 FMO (SHKx)
Plaintiff,)
v.)
O'REILLY AUTO ENTERPRISES, LLC,) **ORDER REMANDING ACTION**
Defendant.)

On November 8, 2024, Daisy Merchant (“plaintiff”) filed a Complaint in the Riverside County Superior Court against O’Reilly Auto Enterprises, LLC (“defendant”) asserting state law claims relating to her employment. (See Dkt. 1, Notice of Removal (“NOR”) at ¶¶ 1 & 3); (Dkt. 1-3, Complaint at ¶¶ 31-79). On December 19, 2024, defendant removed that action on diversity jurisdiction grounds pursuant to 28 U.S.C. §§ 1332(a) and 1441. (See Dkt. 1, NOR at ¶ 8). Having reviewed the pleadings, the court hereby remands this action to state court for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c).

LEGAL STANDARD

25 "Federal courts are courts of limited jurisdiction. They possess only that power authorized
26 by Constitution and statute[.]" Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377, 114
27 S.Ct. 1673, 1675 (1994). The courts are presumed to lack jurisdiction unless the contrary appears
28 affirmatively from the record. See DaimlerChrysler Corp. v. Cuno, 547 U.S. 332, 342 n. 3, 126

1 S.Ct. 1854, 1861 n. 3 (2006). Federal courts have a duty to examine jurisdiction sua sponte
2 before proceeding to the merits of a case, see Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574,
3 583, 119 S.Ct. 1563, 1569 (1999), “even in the absence of a challenge from any party.” Arbaugh
4 v. Y&H Corp., 546 U.S. 500, 514, 126 S.Ct. 1235, 1244 (2006).

5 “Under the plain terms of § 1441(a), in order properly to remove [an] action pursuant to that
6 provision, [the removing defendant] must demonstrate that original subject-matter jurisdiction lies
7 in the federal courts.” Syngenta Crop Prot., Inc. v. Henson, 537 U.S. 28, 33, 123 S.Ct. 366, 370
8 (2002); Abrego Abrego v. The Dow Chem. Co., 443 F.3d 676, 684 (9th Cir. 2006) (*per curiam*)
9 (noting the “longstanding, near-canonical rule that the burden on removal rests with the removing
10 defendant”); Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (“The strong presumption
11 against removal jurisdiction means that the defendant always has the burden of establishing that
12 removal is proper.”) (internal quotation marks omitted). If there is any doubt regarding the
13 existence of subject matter jurisdiction, the court must resolve those doubts in favor of remanding
14 the action to state court.¹ See Gaus, 980 F.2d at 566 (“Federal jurisdiction must be rejected if
15 there is any doubt as to the right of removal in the first instance.”).

16 DISCUSSION

17 The court’s review of the NOR and the attached Complaint makes clear that the court does
18 not have subject matter jurisdiction over the instant matter. In other words, plaintiff could not have
19 originally brought this action in federal court, as plaintiff does not competently allege facts
20 supplying diversity jurisdiction.² Therefore, removal was improper. See 28 U.S.C. § 1441(a);
21 Caterpillar Inc. v. Williams, 482 U.S. 386, 392, 107 S.Ct. 2425, 2429 (1987) (“Only state-court
22 actions that originally could have been filed in federal court may be removed to federal court by
23 the defendant.”).

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25 ¹ An “antiremoval presumption” does not exist in cases removed pursuant to the Class Action
26 Fairness Act (“CAFA”), 28 U.S.C. § 1332(d). See Dart Cherokee Basin Operating Co., LLC v.
27 Owens, 574 U.S. 81, 89, 135 S.Ct. 547, 554 (2014).

28 ² Defendant seeks only to invoke the court’s diversity jurisdiction. (See, generally, Dkt. 1,
NOR).

1 Defendant bears the burden of proving by a preponderance of the evidence that the amount
2 in controversy meets the jurisdictional threshold. See Valdez v. Allstate Ins. Co., 372 F.3d 1115,
3 1117 (9th Cir. 2004); Matheson v. Progressive Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir.
4 2003) (per curiam) (“Where it is not facially evident from the complaint that more than \$75,000 is
5 in controversy, the removing party must prove, by a preponderance of the evidence, that the
6 amount in controversy meets the jurisdictional threshold. Where doubt regarding the right to
7 removal exists, a case should be remanded to state court.”) (footnote omitted). Here, there is no
8 basis for diversity jurisdiction because the amount in controversy does not appear to exceed the
9 diversity jurisdiction threshold of \$75,000. See 28 U.S.C. § 1332(a).³

10 As an initial matter, the amount of damages plaintiff seeks cannot be determined from the
11 Complaint, as the Complaint does not set forth a specific amount. (See, generally, Dkt. 1-3,
12 Complaint). Defendant contends that it has met the jurisdictional threshold based on plaintiff’s
13 request for past and future lost wages. (See Dkt. 1, NOR at ¶¶ 13-14). “Although courts may
14 consider both back pay and front pay to determine the amount in controversy, many courts in this
15 district have declined to project future lost wages beyond the date of removal.” Barrera v.
16 Albertsons LLC, 2019 WL 1220764, *2 (C.D. Cal. 2019) (collecting cases). “The court is hesitant
17 to accept defendant’s estimate where the Complaint does not expressly seek two years of front
18 pay[.]” Adkins v. J.B. Hunt Transp., Inc., 293 F.Supp.3d 1140, 1144 (E.D. Cal. 2018) (internal
19 quotation marks omitted); (see, generally, Dkt. 1-3, Complaint). “Defendant’s conjecture that
20 Plaintiff could seek or be entitled to two years of front pay is speculative and insufficient to meet
21 its burden.” Barrera, 2019 WL 1220764, at *2 (internal quotation marks omitted).

22 Further, defendant’s reliance on plaintiff’s request for emotional distress and punitive
23 damages and attorney’s fees, (see Dkt. 1, NOR at ¶¶ 15-22), is similarly unpersuasive. Defendant
24 argues that these should be included in the amount in controversy determination, but the cases
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26 ³ In relevant part, 28 U.S.C. § 1332(a) provides that a district court has diversity jurisdiction
27 “where the matter in controversy exceeds the sum or value of \$75,000, . . . and is between . . .
28 citizens of different States” or “citizens of a State and citizens or subjects of a foreign state[.]” 28
U.S.C. §§ 1332(a)(1)-(2).

1 it cites involve a range of different factual scenarios, and defendant does not explain how these
2 cases are factually similar to the instant case. (See id.). For instance, defendant fails to explain
3 how the cited cases reflect substantially similar factual scenarios to guide the court as to the
4 amount of emotional distress damages that might be recovered in this case. (See, generally, id.
5 at ¶¶ 15-17); see, e.g., Mireles v. Wells Fargo Bank, N.A., 845 F.Supp.2d 1034, 1055 (C.D. Cal.
6 2012) (remanding where defendants “proffer[ed] no evidence that the lawsuits and settlements
7 alleged in the complaint are factually or legally similar to plaintiffs’ claims”); Dawson v. Richmond
8 Am. Homes of Nevada, Inc., 2013 WL 1405338, *3 (D. Nev. 2013) (remanding where defendant
9 “offered no facts to demonstrate that the [proffered analogous] suit is factually identical [to
10 plaintiffs’ suit]”). Defendant similarly fails to explain how the cases it cites with large punitive
11 damages awards present analogous scenarios. (See, generally, Dkt. 1, NOR at ¶ 18); see, e.g.,
12 Burk v. Med. Savs. Ins. Co., 348 F.Supp.2d 1063, 1070 (D. Ariz. 2004) (remanding where
13 defendant “failed to compare the facts of Plaintiff’s case with the facts of other cases where
14 punitive damages have been awarded in excess of the jurisdictional amount”); Killion v. AutoZone
15 Stores Inc., 2011 WL 590292, *2 (C.D. Cal. 2011) (“Defendants cite two cases . . . in which
16 punitive damages were awarded, but make no attempt to analogize or explain how these cases
17 are similar to the instant action. . . . Simply citing these cases merely illustrate[s] that punitive
18 damages are possible, but in no way shows that it is likely or probable in this case. Therefore,
19 Defendants’ inclusion of punitive damages in the calculation of the jurisdictional amount is
20 speculative and unsupported.”) (citations omitted). Finally, defendant fails to adequately show that
21 attorney’s fees in this case would place the amount in controversy over \$75,000. (See Dkt. 1,
22 NOR at ¶¶ 19-21).

23 In sum, given that any doubt regarding the existence of subject matter jurisdiction must be
24 resolved in favor of remanding the action, see Gaus, 980 F.2d at 566, the court is not persuaded,
25 under the circumstances here, that defendant has met its burden of showing by a preponderance
26 of the evidence that the amount in controversy meets the jurisdictional threshold. See Matheson,
27 319 F.3d at 1090 (“Where it is not facially evident from the complaint that more than \$75,000 is
28 in controversy, the removing party must prove, by a preponderance of the evidence, that the

1 amount in controversy meets the jurisdictional threshold. Where doubt regarding the right to
2 removal exists, a case should be remanded to state court.") (footnote omitted); Valdez, 372 F.3d
3 at 1117.

4 **This order is not intended for publication. Nor is it intended to be included in or**
5 **submitted to any online service such as Westlaw or Lexis.**

6 Based on the foregoing, IT IS ORDERED that:

7 1. The above-captioned action shall be **remanded** to the Superior Court of the State of
8 California, County of Riverside, for lack of subject matter jurisdiction pursuant to 28 U.S.C.
9 § 1447(c).

10 2. The Clerk shall send a certified copy of this Order to the state court.

11 Dated this 17th day of January, 2025.

12 /s/

13 Fernando M. Olguin
United States District Judge

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